

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

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|---------------------|---|------------------------|
| SEAN PAUL JOHNSON, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. CIV-20-1026-J |
| |) | |
| LEE MALLIN, et al., |) | |
| |) | |
| Defendants. |) | |

ORDER

Plaintiff Sean Paul Johnson, a state inmate, filed a complaint under 42 U.S.C. § 1983 alleging violations of his constitutional rights. The matter was referred to United States Magistrate Judge Gary M. Purcell for initial proceedings consistent with 28 U.S.C. § 636. [Doc. No. 4]. On May 27, 2021, Judge Purcell issued a Report and Recommendation recommending that Defendants Lee Mallin, Ray Malget, and John Vasek's Limited Motion for Summary Judgment for Plaintiff's Failure to Exhaust Administrative Remedies [Doc. No. 32] be granted and judgment be entered in Defendants' favor based upon Plaintiff's failure to exhaust his administrative remedies and that the remaining Defendants be dismissed pursuant to 28 U.S.C. §§ 1915A(b), 1915(e)(2)(B) for failure to state a claim upon which relief may be granted. [Doc. No. 38]. Plaintiff was advised of his right to object to the Report and Recommendation by June 16, 2021. No objection has been filed. Plaintiff has therefore waived any right to appellate review of the factual and legal issues in the Report and Recommendation. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

Accordingly, the Court ADOPTS the Report and Recommendation [Doc. No. 38], GRANTS Defendants Lee Mallin, Ray Malget, and John Vasek's Limited Motion for Summary Judgment for Plaintiff's Failure to Exhaust Administrative Remedies [Doc. No. 32], DISMISSES, without prejudice, Plaintiff's claims against Defendants Debra Mallin, Charlie Hanger, May Perry,

and Lance West pursuant to 28 U.S.C. §§ 1915A(b), 1915(e)(2)(B) for failure to state a claim upon which relief may be granted, and DENIES Defendants Charlie Hanger, Debra Mallin, and May Perry's Motion to Dismiss [Doc. No. 27] and Defendant Lance West's Motion to Dismiss [Doc. No. 28] as MOOT.

IT IS SO ORDERED this 8th day of July, 2021.



BERNARD M. JONES
UNITED STATES DISTRICT JUDGE